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AMERICAN CONSTITUTIONAL PRECEDENTS IN THE FRENCH NATIONAL ASSEMBLY

It is hazardous to attempt the genealogy of political ideas or systems, for they often seem to spring into being simultaneously among different peoples. Even where it is possible to trace a distinct influence, this is only one of many causes which have contributed to the result. And yet such influences are always worth study, particularly when they are made interesting by the sentiment with which popular tradition clothes them. While it would argue an undiscerning ambition to endeavor to measure the part American constitutional principles had in the French Revolution,¹ it is nevertheless instructive to observe their influence upon certain decisions of the National Assembly, chiefly those concerning a declaration of rights, the grant of a veto to the king, and the organization of the legislature.

The spectacle of the colonial farmers in arms against their king and organizing self-governing communities first appealed to intelligent Frenchmen because it seemed to offer so many illustrations of their new theories of man, of society, and of government. It undoubtedly still further loosened the supports of the already weakened monarchy. Arthur Young noted in his diary, October 17, 1787, the presence among all ranks of a "strong leaven of liberty, increasing every hour since the American Revolution."² But an influence of this sort is indefinite and not to be described in terms of actual constitutional changes.

Long before the Revolution began many Frenchmen had carefully studied the constitutions of the new American states. The earliest collected translations of these documents appeared in 1778, and contained the constitutions of Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and South Carolina, together with the Declaration of Independence, the Act of Confederation, and various

¹ There are some notes on this subject in C. Borgeaud, *Établissement et Revision des Constitutions en Amérique et en Europe*, also a brief statement in A. Aulard, *Histoire Politique de la Révolution Française*, 19-23. It is incidentally treated in *America and France*, by Lewis Rosenthal.

² *Travels in France* (Bohn ed.), 97. Cf. Malouet, *Mémoires*, I., 246, where the American Revolution and Jean Jacques are coupled as influences leading toward extremely democratic and dangerous changes.

acts of the Continental Congress.¹ A much more complete collection was published in 1783. This included the documents printed by order of Congress in 1781. The work of translation was done by the Duc de la Rochefoucauld at the request of Franklin, who wished to counteract the extravagant misrepresentations of American affairs diligently circulated by the English newspapers. He thought that the new state constitutions would show that political knowledge and sagacity were to be found even in the American wilderness. The work was not published surreptitiously, like so many works of a political character at this time in France. Through the good offices of Vergennes it received official authorization. Franklin presented two copies "handsomely bound, to every foreign minister . . . one for himself, the other more elegant for his sovereign." He further hoped the impression produced by these documents would be so wholesome that many persons of substance would be persuaded to emigrate to America.² An even more complete reprint of the state constitutions appeared from 1784 to 1788 in the section of the *Encyclopédie Méthodique* on "Économie, Politique et Diplomatique," edited by Dèmeunier, censor royal, afterwards a member of the second committee of the Constituent Assembly on the Constitution. Dèmeunier also published separately these documents and his comments.³ Besides such more formal and complete collections, several of the constitutions or declarations of rights were quoted by writers in their essays on the new institutions.⁴

In the discussions of these constitutions there become apparent some of the tendencies characteristic of the attitude of the dominant parties in the National Assembly. One of the first and most important criticisms was made by Turgot, the economist and practical statesman, in a letter to Dr. Price, dated March 22, 1778. He

¹ *Recueil des Loix Constitutives des Colonies Angloises, Confédérées sous la Dénomination d'États-Unis de l'Amérique-Septentrionale*. Dédié à M. le Docteur Franklin. À Philadelphie et se vend à Paris, 1778.

² *Constitutions des Treize États-Unis de l'Amérique*. À Philadelphie et se trouve à Paris, 1783. Franklin's *Works*, VIII. 274-275, 317, 395. Sir Samuel Romilly was introduced to Franklin in Paris, and when some passages from the collection were read to him expressed surprise that the French government had permitted the publication. Quoted from the *Life of Sir Samuel Romilly*, I. 50.

³ *Essai sur les États-Unis*. Par M. Dèmeunier, secrétaire ordinaire de Monsieur, Frère du Roi, et censeur royal. À Paris, 1786. Dèmeunier reprinted these articles again in 1790 under the title *L'Amérique Indépendante* (4 vols.) without taking the trouble to change his comments on the general government under the Confederation.

⁴ The most elaborate of these was Mazzei's *Recherches Historiques et Politiques sur les États-Unis de l'Amérique-Septentrionale* (4 vols., Paris, 1788). Crèvecoeur's *Lettres d'un Cultivateur Américain* (2 vols., Paris, 1784; 1787, 3 vols.) increased general interest in America.

found an objectless imitation of English usages, a system of checks and balances, which may be necessary in counterbalancing the enormous preponderance of monarchy, but which in a republic is only a source of division. A governor, a senate, and a house of representatives were established, according to him, simply because in England there were a King, a House of Lords, and a House of Commons.¹ So strong an impression did Turgot's objection to the bicameral system leave, supported as it was by the well-known views of Franklin, that it influenced opinion and votes when the Constituent Assembly came to face the question.²

In 1787 John Adams published a reply to the criticisms of Turgot, as well as to those of the Abbé Mably³ and of Dr. Price. His first volume attracted such wide attention that he added two others. Although this work was not published in a French translation until 1792, its strenuous advocacy of the theory of checks and balances was known in France, where it was criticized severely rather as a eulogy of the English system than as a "defense" of the American constitutions. It actually weakened the influence of those features of the American constitutions which seemed based on English precedent.⁴ When William Livingston wrote a book combating the views of Adams, it was translated at once and was furnished with notes by such admirers of Turgot as Condorcet and Dupont de Nemours. But Livingston did not go far enough to suit them. They took issue with his assertion that it was necessary to establish a check on the exercise of legislative power by dividing the legislature and by adding an executive veto and a judicial control. They contended that a sufficient check could be found in a declaration of rights, in the inability of the legislators to change the constitution, in county assemblies meeting at fixed epochs to give

¹ *Œuvres*, VIII. 376-392.

² Lafayette wrote, "Turgot, Franklin avaient été partisans de l'unité de chambre; beaucoup de leurs admirateurs éclairés avaient reçu cette impression." *Mémoires*, IV. 200-201. In another passage he refers to the single chamber theory as held by the "généralité du parti populaire et des héritiers de l'opinion de Turgot et de Franklin." *Ibid.*, II. 298-299. Jefferson called the advocates of the single chamber "Turgotists."

³ The Abbé Mably's views have little relation to this subject. Moreover, he totally misconceived the spirit and tendencies of the American institutions, believing that with the increase of wealth coming from trade an aristocracy would take possession of the government, and that it was urgent to shape the new institutions in such a way that the change would come without dangerous shock. For this reason he thought the Massachusetts constitution better than the more democratic constitution of Pennsylvania. *Observations sur les États-Unis d'Amérique*, in the form of letters to John Adams, dated July 24, August 6, August 13, and August 20, 1783. *Œuvres Complètes de Mably*, VIII. 287-416.

⁴ *The Defence of the Constitutions of the United States of America*. London, 1787.

consent, if need be, to legislative acts.¹ Many Frenchmen, among them Condorcet and Brissot, called attention to the American plan of giving constructive constitutional work to a separate convention, freeing it in this way from the vicissitudes of ordinary legislative activity.²

The most solid and extended observations on the American constitutional system were made by Dêmeunier in the *Encyclopédie Méthodique*. Besides a general article on its characteristics and the nature of the Confederation, he devoted a special article to each state. Like Turgot he noted the English features of the constitutions, but these did not trouble him. He believed that the advantages of the bicameral system outweighed the disadvantages. If it required more time to make laws there were fewer errors to correct. He predicted that Georgia, which had no senate, would be forced to create one as soon as its population should become more numerous. In commenting on Pennsylvania his views were most strongly expressed. He did not believe the single chamber system here could endure, for although the inhabitants, and particularly the Quakers, were simple-minded and honest, they had not the vigor to manage a government so stormy. He also noted the controversy already begun in Pennsylvania over this feature of the constitution. Dêmeunier is a curious instance of the rising dread of executive authority which led the French in 1789 to render their monarch powerless for good, if not for ill. He repeatedly urges that the governors be watched, and regards as dangerous their power to make appointments and issue commissions. These officials seem to him too much like uncrowned kings. The same objection will be later urged against the powers of the president. Dêmeunier, like Condorcet³ and others, felt that one of the greatest

¹ *Examen du Gouvernement d'Angleterre Comparé aux Constitutions des États-Unis*. Par un Cultivateur de New Jersey (Paris, 1789), 188-200. Quérard wrongly attributes this book to Robert A. (R.) Livingston. Cf. for a further explanation of Condorcet's views on the organization of the legislature his *Seconde Lettre d'un Citoyen des États-Unis à un Français* (Philadelphia, 1788). Pétion, who in September, 1789, was a partizan of the single chamber, wrote in 1788 in his pamphlet *Avis aux Français sur le Salut de la Patrie*, "Dans un état où tous les citoyens seroient égaux, en Amérique, par exemple. . . il y auroit beaucoup moins d'abus à diviser le corps législatif en deux chambres, parce qu'elles s'éclaireroient mutuellement, qu'elles ne pourroient être animés par aucun esprit de parti," etc., 93-94.

² In the second of Condorcet's *Lettres d'un Citoyen des États-Unis*, *Œuvres*, IX. 122. Cf. his *Essai sur la Constitution et les Fonctions des Assemblées Provinciales* (1788), I. 130. Brissot wrote in his *Plan de Conduite pour les Députés du Peuple aux États Généraux* (April, 1789), 240: "On ne peut imaginer de méthode plus sage que celle des conventions particulières. Nous en devons la découverte aux Américains libres, et la convention qui a formé le plan de système fédéral, l'a infiniment perfectionné." Cf. Brissot's *Discours* (Bibl. Nat., pièce) at the meeting of his Paris district, April 21, 1789.

³ Condorcet wrote in his *Idées sur le Despotisme*: "La première déclaration de droits qui en mérite véritablement le nom, est celle de Virginie, arrêtée le 1^{re} juin 1776; et

contributions the Americans had made to statecraft was the prefixing of a declaration of rights to their constitutions, withdrawing certain things from the field of legislation and guaranteeing the individual against legislative tyranny. He said it was a shame that New York had drawn up no such declaration, and eulogized New Hampshire and Massachusetts because of the completeness of their statements. "One finds there," said he, "the soundest maxims ever imagined on government, an outline more interesting than any offered by the most famous works." Part of them he looked upon as echoes of the great principles of English jurisprudence.

After the war was ended, and attention turned from its heroic struggles or from the theoretical beauties of paper constitutions to the actual administration of affairs under the Confederation, American credit began to decline. The want of energy in the central government, the refusal of the states to pay their share of the taxes, the paper-money schemes, and the occasional disorders were magnified, especially through the malicious efforts of the English newspapers. Lafayette repeatedly expressed to Washington the embarrassment felt by the friends of America because of this steady decline in her reputation, which, he added, "furnishes the adversaries of liberty with anti-republican arguments."¹

The despatches of Otto, the French chargé d'affaires, and of the Marquis de Moustier, the French minister, emphasize the state of collapse into which the Confederation was sinking. Moustier thought it likely that he would be forced to negotiate with the separate states. He believed the government so feeble that it would be wise for France to seize Newport and New York to prevent their falling into the hands of the British in the event of a war between France and England.² In its instructions to Otto, dated August 31, 1787, the French government anticipated a further development of the democratic tendencies of several states, with the gradual falling of all into complete isolation and independence. It

l'auteur de cet ouvrage a des droits à la reconnaissance éternelle du genre humain. Six autres états d'Amérique ont suivi l'exemple de la Virginie." *Œuvres*, IX. 168. But in the notes on Livingston's book he, or one of his friends, expresses dissatisfaction with the terms in which these rights are expressed, and adds that now reason and logic "peut arriver en ce genre à un tel degré de perfection qu'il ne puisse y avoir dans l'univers entier deux déclarations de droits qui diffèrent entr'elles d'un seul mot." *Examen*, 199.

¹ Letter of August 3, 1787, *Mémoires*, II. 203. Cf. II. 135, 192, 195. Jefferson's letters in *Writings* (Washington ed.), I. 407-408, 518; Franklin, *Works*, VIII. 347; also Lafayette to Franklin, IX. 291. It was the need of defending America that led Mazzei to publish his *Recherches*, and that inspired much of what Brissot wrote in his part of *De la France et des États Unis* (London, 1787). The other author was Clavière, later Girondin minister of finances.

² Archives du Ministère des Affaires Étrangères, Correspondance, États-Unis, XXXIII. fol. 17, 22-26.

consoled itself with the reflection that "this revolution will have nothing vexatious for us: we have never pretended to make of America a useful ally; we have had no other end than to deprive Great Britain of a vast continent."¹

Such a state of affairs was unfavorable to the continued influence of American constitutional methods. But there was another consequence. As soon as rumors of a revision of the system of government were heard, the text of the new Constitution was eagerly awaited. When it came it was printed in the most important newspapers and in the last volume of the *Encyclopédie Méthodique*.² Not all read it with the deep interest Lafayette expressed to Washington, although according to him it had been much admired by the philosophers of Europe.³ Condorcet wrote to Franklin, "If it was impossible to obtain anything better, we must regard it as among the necessary evils, and hope that the opposition will be strong enough to require a few years hence a new convention." He vaguely added, "I see with pain that the aristocratic spirit seeks to introduce itself among you in spite of so many precautions."⁴ He and his friends touched in the notes to Livingston's book what they considered its defects. They saw in it an ominous similarity in fundamental principles to the English constitution.⁵ They were surprised at the omission of a declaration of rights; there was also nothing to prevent high offices from becoming hereditary, and the Federal government was too strong.⁶ At least two of these features were generally considered faults. As Jefferson wrote in reference to a declaration of rights, "the enlightened part of Europe have given us the greatest credit for inventing this instrument of security for the rights of the people and have been not a little surprised to see us so soon give it up."⁷ The other fault is significant, not to say ominous, for the future of France: it was the power

¹ *Ibid.*, XXXII. fol. 350-351. In March, 1789, Moustier prepared an article for the *Gazette de France*, calling attention to the collapse of the Confederation as a lesson to the admirers of the Americans.

² The *Gazette de Leyde* published it in Nos. 91-95, beginning Nov. 13, 1787. This paper gave constant attention to the movement for ratification. When it announced the final adoption in No. 72, it remarked that while Europe was suffering from an excess of ills America was at the height of her wishes. The *Gazette de France* published, Nov. 20, a short sketch of the Constitution. The *Mercure de France* published the full text in the same month.

³ Letters of Jan. 1 and Feb. 4, 1788, *Mém.*, II. 216, 222.

⁴ Franklin, *Works*, X. 1, letter of July 8, 1788.

⁵ The bishop of Arras told Gouverneur Morris in March, 1789, that the Constitution was "the best that has ever yet been found, but has some faults which arise from our imitation of the English." *Diary and Letters*, I. 34.

⁶ *Examen*, 200 ff.

⁷ *Writings* (Washington ed.), II. 586. Cf. Lafayette's letter of Jan. 1, already cited.

granted the President. Lafayette shared this conviction with others of less practical capacity, but he hoped that Washington during his presidency would use his influence to have the presidential prerogatives lessened.¹ So sound a thinker as Dêmeunier held a similar opinion.² The division of Congress into two chambers also excited criticism. Finally Franklin wrote one of his friends that although he shared the opinion that one chamber would have been better, "nothing in human affairs and schemes is perfect, and perhaps that is the case with our opinions."³

Otto's first impressions of the new Constitution were wholly favorable. He felt that American credit would rise immediately and that "Congress would be able to make advantageous treaties with foreign nations, and above all protect the property of individuals which it has never been able to do since the Revolution."⁴ Moustier reached the conclusion that the Constitution was the method adopted by the property holders to protect themselves against being plundered by cheap money and other devices. He also thought that in the end ambitious men would perpetuate themselves in power.⁵ Both he and Otto saw in the Constitution a great blow to the sovereignty of the states. Otto explained that limited to matters of internal policy the state legislatures would henceforth resemble corporations rather than sovereign assemblies.⁶

¹ Letter of Jan. 1. Cf. letter of May 25, *Mém.*, II. 227. The Duc de la Rochefoucauld wrote to Franklin expressing the hope that Washington "would set bounds to his own power, that when placed by his fellow-citizens in the highest office, he will point out to them the evils of too blind confidence and directing it to a noble end, he will provide restraints upon his own power and that of successors less worthy than himself." Franklin, *Works*, X. 2-3. La Rochefoucauld said the same thing in a speech on the veto, written for the debate in the National Assembly, Sept. 7, 1789. *Opinion* (Bibl. Nat., pièce), 12-13.

² *Encyclopédie Méthodique*, IV. article États-Unis. He notes the apprehension felt in Europe in regard to the powers of the President. Their "énormité . . . effraye avec raison." Franklin wrote his correspondent Le Veillard that he seemed too apprehensive about "our President's being perpetual. Neither he nor we have any such intention." *Works*, X. 13. Probably Jefferson's opinions acted on those of his French acquaintances, alarming them unduly upon the dangerous nature of the office. See his letters, to Adams, Nov. 13, 1787, and on the same day to Colonel Smith, *American Diplomatic Correspondence, 1783-1789*, III. 337-339; Dec. 20 to Madison, *ibid.*, 350-351; Feb. 7, 1788, to Donald, *Writings*, II. 355-356.

³ *Works*, X. 13.

⁴ Correspondance, États-Unis, XXXII. fol. 376.

⁵ *Ibid.*, XXXIII. *passim*, especially fol. 238. Moustier published a pamphlet in 1791, *De l'Intérêt de la France à une Constitution Monarchique*, in which he argued the distinctly monarchical tendencies of the new American Union, and asserted that its character was generally misunderstood in France.

⁶ *Ibid.*, XXXII. fol. 379. Cf. a similar opinion in Mazzei's *Recherches*, IV. 182; also a eulogy of the Federal system in Mirabeau's *Analyse des Papiers Anglais*, No. 14. Otto thought the balance established between the Senate and House quite ideal, although the Senate might incline toward more intimate relations with the President. He also thought the Federal courts would add greatly to the power of the government.

It is apparent from these currents of thought among influential Frenchmen that even the sincere admirers of America were not docile pupils of American experience. Some of them were inclined to reject the very constitutional devices that the Americans had adopted as the teaching of their whole political past, and to accept merely what was similar to the speculative conclusions of the French philosophical school itself. Aside from Lafayette, Brissot was the most thoroughgoing admirer of the American system, but since he failed to be elected to the States General, his advocacy was made only through his pamphlets and his newspaper. It is also significant that of the men who were deeply interested in American constitutional principles before the opening of the Revolution not one was a member of the first committee on the Constitution. The most prominent members of that committee appear to have approved the American constitutions for their resemblances to the English system, in other words, for those very characteristics which were considered defects by those who had taken special interest in the American constitutions.

The first serious constitutional question that was brought up after the States General had become the National Assembly concerned a declaration of rights. It was the example of the American states which had made this a part of the new programme. Moreover, the contents of the various American declarations were consulted in formulating one for France. Such a conclusion would be reached from what has already been said of pre-Revolutionary writings, but there is additional evidence.

It was significant that Lafayette submitted the first project. As early as 1783 he had placed in his house a copy of the Declaration of Independence with an empty space beside it, awaiting, as he said at the time, a declaration of rights for France. He probably put his project in form early in 1789, for Jefferson wrote in January, "Everybody here is trying their hand" at such statements.¹ So far as he used American declarations as a guide it was not the Declaration of Independence but the bills of rights prefixed to the state constitutions which served this purpose.

In the National Assembly the discussion of a declaration of rights falls into two periods, for on July 11, immediately after Lafa-

¹*Mémoires*, III. 197. Jefferson's *Writings* (Ford ed.), V. 64. Lafayette subsequently wrote, "La première déclaration des droits dans le sens américain, qui ait été proclamée en Europe, est celle que Lafayette a proposée à l'assemblée nationale." He also explains that it was only after the beginning of the American era that the question had been raised of defining the rights which each man possesses independently of established society. It is in this connection that he comments on the state declarations of rights, particularly that of Virginia. "Sur la déclaration des droits," *Mém.*, II. 303-306.

yette had presented his project, everything was thrown into confusion by the dismissal of Necker. Not until July 27 did the constitutional committee make its report upon this question. There followed a preliminary debate until August 4, when attention for a week was concentrated upon the attempt to sweep away the debris of feudalism. August 12 the discussion was resumed, and was concluded only on August 26. In the report of the committee the influence of America was definitely recognized. The reporter, Champion de Cicé, archbishop of Bordeaux, said: "This noble idea, conceived in another hemisphere, should fittingly first be transferred to us. We assisted in the events which gave to North America her liberty; she shows to us upon what principles we should preserve ours."¹ But as Barère remarked, in so large an assembly there might be differences of opinion upon the possibility of "naturalizing in the Old World this product of the New and of adapting the ideas of young republics to old empires."²

There were many besides the reactionary nobility that feared the effect upon the people of such a statement of abstract principles unaccompanied by those provisions of the Constitution which would indicate the limits of their application. Mounier was one of these. He argued that the declaration should be published as a preamble to the Constitution. If in this way the exact consequences were not made known, it would, he urged, "permit the assumption of other consequences which will not be admitted by the Assembly."³ Another member of the same party, Malouet, argued that nothing could be inferred from American precedent, because the Americans were "all farmers, all proprietors, all equals."⁴ He here touched the vital difference between the situation of the two countries. However abstract may have been the principles laid down in some of the American declarations, there was scarcely anything in them which did not correspond to rights long enjoyed and entirely consistent with the political and social system, as well as the traditions of the people. But those who believed in an immediate publication of a declaration prevailed; and it was voted, August 4, not to defer this until the completion of the Constitution.

¹ P. 5 of the *Rapport* attached to the *Procès-verbal* of July 27.

² *Point du Jour*, I. 376. Barère also wrote apropos of the report of the Committee of Five, August 18, which attempted to weld the several declarations, "C'est sans doute une idée neuve des législateurs qu'une déclaration des droits; mais l'exemple donné en ce genre par l'Amérique libre n'a pas encore appris à vaincre les difficultés d'un pareil ouvrage." *Ibid.*, II. 161. Cf. 168.

³ *Procès-verbal*, July 9, *Rapport du Comité chargé du Travail sur la Constitution*. Cf. Lally-Tollendal's similar opinion, *Point du Jour*, I. 173.

⁴ *Courrier de Provence*, No. 22, p. 22. Cf. *Point du Jour*, II. 15.

After the Assembly had completed its decrees for the abolition of feudalism it resumed the discussion of the declaration of rights and sought to draw up a satisfactory statement. Many of those who admired the American declarations felt, nevertheless, that these could be improved. Count Mathieu de Montmorency said that the French enjoyed an advantage over the Americans; they "could more boldly invoke reason and allow it to speak a language more unalloyed." "Yes," he added, "it belongs to France and to the eighteenth century to present to the world a new model and a code of reason and wisdom to be admired and imitated by other nations."¹ Mirabeau, however, was scarcely able to disguise his contempt for such exercises in phrase making. He declared that "liberty was never the fruit of a doctrine laboriously wrought out in philosophical deductions, but, rather, of daily experience and of the simple reasonings that the facts suggest." And he added: "Thus the Americans have made their declarations of rights; they have designedly laid aside abstract science; they have presented the political truth which it was necessary to establish in a form easily adopted by the people to whom alone is liberty of importance and who alone can maintain it."²

Of the various projects the most noteworthy besides that of Lafayette were those submitted by Mounier and by the Abbé Sieyès. Mounier's project was confessedly based on that of Lafayette.³ Lafayette himself believed that this was true of all the others, and it was also asserted in the course of the debate.⁴ Undoubtedly Sieyès would not have sanctioned a view which would rob him of any of his prestige as an independent source of political inspiration. But the general influence of the American declarations does not depend upon the leadership of Lafayette in this matter. Rabaut de St. Etienne affirmed this influence unequivocally, although he preferred the project of Sieyès. He said, "You have decided to make a declaration of rights because your cahiers impose this duty upon you; and your cahiers have spoken to you of it because France

¹ *Discours* (Bibl. Nat., pièce), Aug. 3, p. 15. Mme. De Staël remarked in her *Considérations sur la Révolution Française*, "Quand la déclaration des droits de l'homme parut dans l'assemblée constituante au milieu de tous ces jeunes gentilshommes naguère courtisans, ils apportèrent l'un après l'autre à la tribune leurs phrases philosophiques, se complaisant dans des débats minutieux sur la rédaction de telle ou telle maxime, dont la vérité est pourtant si évidente, que les mots les plus simples de toutes les langues peuvent l'exprimer également." I 274.

² *Courrier de Provence*, No. 27, pp. 4-5, on the debate of August 17-18. Cf. No. 29 and No. 33; E. Dumont, *Recollections of Mirabeau*, 112-114.

³ *Exposé de la Conduite de M. de Mounier dans l'Assemblée Nationale*, Nov. 17, 1789, p. 123.

⁴ By the Abbé de Bonnefoi, Aug. 19.

has had for her example America."¹ His only fear seemed to be lest the imitation might be slavish. The whole debate left upon the mind of Necker the impression which he later embodied in the remark, "The first seeds of these ideas of equality were scattered abroad in adopting for the kingdom of France the declarations of rights of several American republics."²

In the course of the debate only one of the speakers ventured to criticize severely the American declarations. This was Cr ni re. He insisted upon a distinction between a statement of principles and a declaration of rights. Rights, he said, were the result of agreement, not the consequence of principles. This disciple of Rousseau then continued, "If the boasted declaration of the United States is an agreement of this sort we should be wrong in taking it as a model," for it is "on several accounts a most inept act, an intentional affront to liberty." He was vigorously rebuked by D meunier, who testified to their indebtedness to the Americans for light upon liberty.³

Among the projects which differed more in form than in substance it proved impossible for the Assembly to choose. Accordingly, August 12, a committee of five was appointed to embody what was best in each. As this committee failed to present an acceptable statement, each bureau was asked to offer a project. That of the sixth bureau was chosen as a basis for the final task of statement, but it was amended beyond recognition, and the result was quite as much due to happy improvisation as to long meditation.⁴ It was essentially a literary endeavor. How far the content of the French declaration may have been influenced by the American bills of rights may be a matter of doubt, but the example of the Americans in prefixing such a declaration to their constitutions was decisive.⁵

¹ *Moniteur*, r impression, I. 349. It is to be remembered that this version by the *Moniteur* was taken from some contemporary newspaper, as the *Moniteur* did not begin publication until November.

² *De la R volution Fran oise*, par M. Necker, II. 36.

³ This account is taken from Bar re's *Point du Jour*, II. 162-163. Bar re does not give Cr ni re's severe words: he says, "M. Cr ni res a ensuite caract ris  fortement cet acte des Am ricains, et il a annonc  qu'il prouverait un jour la qualification qu'il lui donne." The *Courrier de Provence* says Cr ni re called the "declarations si vant es des Am ricains . . . ineptitudes," No. 29, p. 2. The exact words seem to have been given in the *Mercur de France*, Aug. 29, p. 346, "  divers titres l'acte le plus inepte, l'attentat le plus m dit  contre la libert ." This criticism the *Mercur* first attributed to D meunier himself, but on receiving a note from D meunier the mistake was corrected.

⁴ Mounier in his *Expos * (p. 32) says that several articles adopted August 20 were taken from Lafayette's project, and others on August 21 from his own. Robespierre — called M. Robert-Pierre by Bar re — argued August 24 for an article on the complete liberty of the press like that in the American constitutions. *Point du Jour*, II. 208.

⁵ Professor Georg Jellinek in his *Declaration of the Rights of Man and of Citizens*, tr. by Professor Farrand, argues the close dependence of the French declaration upon its

Before the debate on the declaration of rights came to an end the divisions between those who had hitherto been counted supporters of the Revolution became more clearly marked. The heavy sacrifices which the decrees of August 4 had imposed on the privileged classes had alarmed the more conservative. Their fears were increased by the continuance of disorder in the provinces and the utter prostration of governmental authority. These men, drawn together by common ideals, gradually organized a party or group in the Assembly. They had a central committee and subcommittees. Although they did not control a majority of votes, they used their forces so effectively that for a time they appeared to command the situation. Their leaders were La Luzerne (bishop of Langres), Mounier, Malouet, Bergasse, Lally-Tollendal, Clermont-Tonnerre, and Virieu. The group was principally made up of members of the Third Estate with a few recruits from among the nobility.¹

The more radical part of the Assembly was led by Barnave, Duport, and the Lameths. Their strength lay not so much in the actual number of adherents that they possessed as in the fact that a great many deputies who generally seemed inclined to follow the leadership of Mounier refused to follow him in any course of action which was likely to compromise the gains of August 4. The hesitation of the King in accepting these decrees predisposed such deputies to oppose any constitutional provisions which would increase his power of resistance. Accordingly they often voted with Barnave instead of with Mounier.

In marking out the framework of the Constitution the initiative belonged to Mounier and his friends because they were the majority of the committee. It becomes important, therefore, to understand their attitude toward American constitutional principles. This is made clear not only by their speeches and reports, but also by a book on government which Mounier wrote during the discussion of the declaration of rights and published at this juncture to influ-

American predecessors. His thesis is severely handled by M. Boutmy in the *Annales des Sciences Politiques* for July 15, 1902. Although M. Boutmy seems to have the best of the argument in general, he pushes his denial of relationship quite beyond what the history of the debate in the National Assembly permits. See further A. Bertrand, *La Déclaration des Droits de l'Homme et du Citoyen* (Paris, 1900) and E. Blum, *La Déclaration des Droits de l'Homme et du Citoyen* (Paris, 1902).

¹ Malouet, *Mémoires*, I. 302-303. Cf. A. Mathiez, *Revue Historique*, LXVII. 267 ff. See also the *Journal de l'Assemblée Nationale*, Sept. 1, 1789, by Gaultier de Biauzat, who says this party first showed its hand Aug. 23 on the question of religious opinions. Fr. Mège, *Gaultier de Biauzat, sa Vie et sa Correspondance*, II. 269-270. Jefferson thought this group unwittingly played into the hands of the aristocrats. *Autobiography*, I. 104.

ence public opinion.¹ Mounier's views on the American system were formed rather from a contemplation of the weakness of the Confederation and the disorders in the states than from a knowledge of the prospects of government under the new Federal Constitution. Although he says that the United States had approached the true principles of liberty more closely than all ancient or modern republics, he adds that such a government is suited only to a small population of quiet manners. The American veto seemed to him too weak to hold the legislatures in check. He approved the property qualification demanded for senators and insisted on American experience with the single chamber system. He said that the Pennsylvanians now recognized that their constitution had been directed by ideas too abstract and metaphysical, and that they were on the point of adopting the bicameral system. He believed that a senate like most of those in America was the utmost his party could offer to the radicals as a basis of compromise. In accordance with this idea, although he confessed his preference for a chamber of peers like the English House of Lords, he suggested a senate of 300 members chosen by the provincial assemblies, each member to be at least thirty-five years old and to enjoy an income of 10,000 livres from real estate. It was not to alter the terms of tax laws, but could amend other bills sent up for its consideration. It was also to be a high court for impeachments.²

Another member of the committee, Lally-Tollendal, who belonged to the same group, did not consider Mounier's minimum an acceptable basis for a compromise. He thought such a senate would not acquire a sufficient weight as a distinct power in the political balance, and that it would be hardly more than a second section

¹ *Considérations sur le Gouvernement et principalement sur celui qui Convient à la France*. For the date, see his *Exposé*, 31. Mounier thought that the new Federal system in order to maintain itself would be obliged to compel the states to serious sacrifices and would finally crush them altogether. The position of the President would, he believed, become a subject of intrigue, and the only remedy would be found in an hereditary stadholderate. He also saw a germ of servitude in the power of Congress to legislate for the District of Columbia, "car les Membres du Congrès auront des sujets auxquels ils donneront les Loix" (p. 16). Lafayette regarded Mounier as wholly an admirer of the English constitution and as having little knowledge of American constitutional principles, *Mém.*, IV. 72-85. Cf. *Patriote Français*, No. 36.

² Mounier said later that, while he proposed this compromise, he was so convinced of the need of a chamber of peers that he urged Bergasse to fight for such a solution. *Recherches sur les Causes qui ont Empêché les Français de Devenir Libres*, II. 262-263. La Luzerene had published a pamphlet at the opening of the States General, *Sur la Forme d'Opiner aux États-Généraux*, in which he suggested that the nobility and the clergy be put in one chamber and the Third Estate in the other. He supported his argument by citing the example of the United States, remarking that they in "établissant la constitution la plus républicaine qu'ils puissent imaginer, n'ont pas voulu déposer la totalité du pouvoir dans une seule assemblée. Ils ont formé le congrès de deux chambres" (pp. 10-11).

of a single chamber. He argued for a senate which was simply a thinly disguised chamber of peers. Its members were to be appointed for life by the king from lists of nominees made by the provincial assemblies. Unable to agree in its report, the committee contented itself with recommending the bicameral system and made no attempt to fix the character of the upper chamber.¹ It further declared for the grant of a veto to the king as well as of the right of dissolving the lower house.

According to Jefferson's rather sanguine view of the situation, American precedents were exercising at this time a determining influence. On August 28 he wrote to Madison, "Our proceedings have been viewed as a model for them on every occasion; and tho in the heat of debate men are generally disposed to contradict authority urged by their opponents, ours has been treated like that of the Bible, open to explanation but not to question."²

Although certain constitutional features of the American system undoubtedly exercised some influence, this system was not the ideal of the committee. They were justly called "Anglomaniacs." Their use of American examples was often in the nature of an argument *a fortiori*. Lally-Tollendal in his personal report, while disclaiming a comparison between France and the American repub-

¹ *Procès-verbal*, August 31, annexed *Rapport*, p. 30. In reference to the part the provincial assemblies were to play, a few tendencies of thought should be noted. Jefferson wrote to Madison, August 28, that "the provincial assemblies will be entrusted with almost the whole of the details which our state governments exercise. They will have their own judiciary, final in all but great cases, the Executive business will principally pass through their hands and a certain local legislature will be allowed them. In short ours has been professedly their model, in which such changes are made as a difference of circumstances rendered necessary." *Writings* (Ford ed.), V. 109. In a debate over Paris, July 23, Mirabeau in support of his contention that Paris had a right to organize itself had cited the American example of leaving "à tous ces états le choix du Gouvernement qu'il leur plaira d'adopter pourvu qu'ils soient républicaines, et qu'ils fassent partie de la confédération" (*Dix-Neuvième Lettre du Comte de Mirabeau à ses Commettans*, 53-54). But if Mirabeau had any tendencies toward this sort of federalism, he abjured them a month later. Brissot, whose project for the municipal constitution of Paris was accepted as a working basis, asserted local autonomy in unmistakable terms. The sphere of the National Assembly is to embrace the objects common to all the provinces and to sanction the constitution the different provinces give themselves. This sanction he calls "le lien fédéral" (*Observations sur le Plan de la Municipalité de Paris*, Nov. 15, 1789). Brissot had first printed this preamble in his *Patriote Français*, No. IX., August 6. Lafayette feared that the plan of allowing the existing provincial assemblies to choose the senators would encourage these assemblies to become too independent in spirit. He therefore suggested an increase in their number "afin d'éviter l'esprit de provinces confédérées." From a letter written about September 1, 1789, *Mém.*, II. 323-324. In the debate on the veto fears of "federalism" were more vigorously expressed by Sieyès, Virieu, and others.

² Letter to Madison, *Writings* (Ford ed.), V. 110. Morris had written to Carmichael in July, "They want an American constitution, with the exception of a King instead of a President," *Diary and Letters*, I. 113-114. Brissot heard of murmurs against the citation of American examples if Jefferson did not (*Patriote Français*, No. 26, p. 4).

lics, inhabited as these were by farmers, insisted that if both Adams and his critic Livingston agreed in the necessity of a division of the legislature, "if the Americans, enlightened by their Publicists, convinced by experience, have almost all adopted the plan of three powers—in their chamber of representatives, their senate, and their governor—is not this necessity recognized by them an invincible demonstration of the necessity to which we should yield?"¹ A few days later Mounier alluded to the system of the Americans "who are proposed to us as models" and expressed astonishment that any one should propose to grant to the French monarch fewer prerogatives than to the American President, and concluded by referring to the weakness of the American executive, a weakness which would mean ruin to a country like France.² Still another member of the group, in an argument from American precedents, explained that the Americans had followed "the English constitution attentively in everything that concerned the distinction and the limitation of the powers."³

Before the two parties in the National Assembly had begun their contest over the propositions of the committee, Lafayette attempted to bring the leaders together and to discover an acceptable compromise. No one in France had more influence than he at this time, although his position at the head of the National Guard precluded any direct intervention in the debate. His programme, which he explained in a private letter,⁴ included a suspensive or iterative veto which would enable the king either to consult the nation or to influence the deputies, and two chambers, the second to be composed of senators chosen for six years by the provincial assemblies. At his suggestion conferences were begun between Mounier and Barnave, supported by their friends. The most important of these conferences was held, probably August 27, at Jefferson's house. For six hours the discussion went on and when it came to an end a compromise seemed within reach. Indeed, Jefferson, writing only three weeks afterwards, asserted that one had been agreed upon, although he was unable to explain why it had not been carried out. But Mounier, in his justification of his conduct written in November, intimated that the conferences were unsuccessful. He said his opponents offered to vote for the absolute veto and for two chambers if he would consent to leave the

¹ *Rapport de M. le Comte de Lally-Tollendal*, 22-24.

² *Procès-verbal* for Sept. 4, annexed speech, 38. Mounier calls the President "Président du Congrès," although thinking of the new office. Brissot and others made the same mistake.

³ Bergasse, *Discours* (Bibl. Nat., pièce, Sept. 7), printed but not delivered, 45-46.

⁴ *Mém.*, II. 323-324.

upper chamber without the power of altering projects of law, making it simply a chamber of revision, and if he would also refuse to the king the power of dissolving the lower chamber and would vote for a scheme of national conventions for the revision of the Constitution. This compromise was so close to the minimum which Mounier had himself outlined in his book that it is difficult to understand why he refused it. He evidently did not altogether give up the hope of ultimately reaching an agreement, for in his report and in his speeches he continued to suggest a senate far beneath his ideal. In this his friend Malouet, who was also at the conference, assisted him. According to Mounier there was another conference at Versailles August 29, and when this broke up Barnave and his friends asserted that they would henceforth argue for a suspensive veto and would act on public opinion at Paris.¹

Perhaps Mounier would have been more ready to accept a compromise had he not overestimated the strength of his following in the Assembly. Unhappily for him he could not count on the support of even the nobles. The provincial nobility, assuming that the senate was a chamber of peers in disguise, feared that all the peerages would be given to the court nobles. Others thought preference would be given to the nobles who had first declared for the Third Estate during the controversy about the organization of the States General. Still others hoped that the very tyrannies of a single chamber would be the means of disgusting the nation with the Revolution and would lead to at least a partial restoration of the old order of things.²

¹ Jefferson, letter of Sept. 20, *American Diplomatic Correspondence*, 1783-1789, IV. 144. The account given by Jefferson in his Autobiography is rather fanciful, and the alleged results of the conference are not borne out by the records. In a letter to Jay, Aug. 27, Jefferson wrote: "I can now state to you the outlines of what the leading members have in contemplation. . . . The legislative to be a single house of representatives, chosen for two or three years. They propose a body, whom they call a senate, to be chosen by the provincial assemblies, as our federal senate is, but with no power of negating or amending laws; they may only remonstrate on them to the representatives, who will decide by a simple majority the ultimate event of a law. . . . It is proposed that they shall be of a certain age and property, and be for life" (*Ibid.*, 135). In writing to Madison the next day he makes the same statement. As Mounier declared the last conference took place August 29, it is probable the conference at Jefferson's house was held before the letters to Jay and to Madison were written. This is also the implication of Jefferson's words, "I can *now* state," etc. If so, the compromise which Jefferson believed had been agreed upon is given in his two letters. The implication of Lafayette's later comments was that no compromise was reached. Evidently the result was not clear. Mounier, *Exposé*, 37-38; Lafayette, *Mémoires*, II. 298-299; III. 203, 514; IV. 200-201. Cf. III. 231. Two years later Barnave and his friends were plotting to revise the Constitution and to institute an elected second chamber. *Memoirs of Mallet du Pan*, I. 263, 443.

² Rabaut de Saint Etienne, *Précis de l'Histoire de la Révolution Française* (ed. 1819, first published in 1792), II. 88-90. Cf. Lafayette, *Mém.*, II. 299.

When the discussion was begun, an attempt was made to separate the question of the veto from that of the two chambers, but this was found impracticable, for if the king was to receive the right of veto many saw no reason to permit another veto, namely, that of an upper chamber over the decisions of the lower. The debate was hardly more than a series of set speeches in which the orators made no effort to meet the arguments of those who had preceded them.¹ The Assembly was, therefore, little nearer an intelligent settlement of the issue when a vote was taken than before the first speeches were made. This is less true of the discussion of the veto than of the debate on the organization of the legislature.

The veto power bore too close a relation to the gains of August 4 not to excite the interest of the country. The discussion had hardly been opened before the agitators of the Palais Royal attempted to start a march upon Versailles, directed particularly against the party of "corrupt commoners," Mounier and his friends, who were betraying the Constitution to the aristocrats. The firmness of the provisional government of Paris defeated this scheme and also checked the movement among the district assemblies of the city to force a decision of the question by a referendum.

The issue lay between an absolute veto and some form of delay, either by suspending the decision until the next or a succeeding legislature or by referring it to the vote of the primary assemblies. The proposition to dissolve the legislature and go before the voters with a question or to send to them for a special mandate seemed to many like transferring the legislative power to the bailiwicks and turning the country into a monstrous federation. Sieyès declared it would divide France into "little democracies, which would be united only in a general confederation, almost as the thirteen or fourteen United States of America are confederated in general convention." Such a fate he deprecated. "France," he exclaimed, "is not a collection of states; it is one whole composed of integral parts."² The ominous rumors of independent action from one or two provinces, as well as from several districts in Paris, dissatisfied with the course the Constitution was taking, led some of the liberals to recoil a little. On September 7 the Duc de la Rochefoucauld confessed he had changed his opinion during the

¹ Mallet du Pan in the *Mercur de France*, September 12, protested against turning the Assembly into an academy. The same criticism was made by Mirabeau's *Courrier de Provence*, No. 39, and by the *Journal de Paris*, September 9.

² *Procès-verbal*, September 7, annexed speech, pp. 10-11. Cf. *Courrier de Provence*, No. 36, pp. 10-11, and the *Discours du Comte d'Antraigues*, p. 14. Also the speech of Virieu in the *Mercur de France*, September 19.

last five days, and that instead of an immediate appeal to the people he advocated a suspension of decision until the next legislature.

As the partizans of the suspensive veto seemed to be gaining ground, the situation was more favorable for an advocacy of the American plan embodied in the new Constitution. The only man who urged this solution intelligently was Brissot, just then one of the most influential politicians in Paris. On September 4 he declared in his newspaper that the absolute veto meant despotism, or the will of one man, and that the suspensive veto meant anarchy, or a will impossible to reach. He clearly explained the American system, which, said he, had no other object than to bring about a fresh discussion and did not serve as an obstacle to legislation.¹ Brissot found little hearing because both parties agreed in seeing hardly any analogy between the two situations, a veto in the hands of a king being a different thing from the right of an elected officer to force a reconsideration.² The Duc de la Rochefoucauld called even the President's veto a feeble shadow of the royal sanction.³ But so far as it could be brought into comparison it was considered a species of suspensive veto. Even Brissot later acknowledged that it must be so classified, although he did not abandon his conviction that it was more prompt and less dangerous in its effects than the form actually adopted.⁴

As already pointed out, the question of a second chamber was closely related to the problem of the veto, because if the main argument urged for the grant of a veto was the necessity of deliberation this need was satisfied by giving the king the power to postpone decisions over one or two legislatures. Such a consideration led admirers of America, like the Duc de la Rochefoucauld, to disregard the argument for two chambers that was based on American experience. He said, "I shall not be frightened out of my conclusion by the example of the two American states, of which one (Georgia) has already exchanged its single legislature for two legislative bodies, and the other (Pennsylvania) will soon, it is reported, adopt this complicated system." He explained that the French had one "means not possessed by the Americans of providing against the dangers which come from the unity of the legislative body, namely, the *royal sanction*."⁵ Nevertheless he was in favor of a chamber of

¹*Patriote Français*, Nos. 34, 35, 36, 37, 42. Brissot thought the discussion showed ignorance of American institutions.

²Barère even said the Americans had not been obliged to face so grave a question as the grant of a veto. *Point du Jour*, II. 265.

³Speech of September 7.

⁴*Patriote Français*, No. 42. Cf. *Mercure de France*, September 12.

⁵Speech of September 7.

revision chosen by the primary assemblies. Another admirer of America, Dêmeunier, advocated the same solution.

The inclination to find a sufficient check in a suspensive veto was increased by the manner in which the admirers of the English system, particularly Lally-Tollendal, represented the machinery of government as a set of forces skilfully correlated so that each counteracts the dangerous tendencies of the others. As Barère put the matter in his newspaper at the beginning of the debate: "England offers her three powers, *astonished* at the knot which binds them together, and America presents her senate, her governors, and her representatives. Among the publicists, some subject an empire to the laws of mechanics, boasting of the equilibrium and balance of opposed and interdependent powers."¹ Thouret was one of those who felt an ill-disguised contempt for the doctrine of the balance of powers, which he referred to as "this machine, repaired recently by Mr. Adams, which has lost in good minds its ancient credit."² This was not the only time John Adams was scornfully treated because of his book. Lanjuinais spoke of him as "the Anglo-American Mr. Adams, whose vote is only that of a blind partizan of inequality."³ Another speaker referred to him as the "Don Quichotte of the nobility, the corrupt tutor of a grand seigneur."⁴

Several leading men also felt that a senate would somehow bring back the system destroyed by the triumph of the Third Estate in June. Mirabeau's journal declared that the "project of a senate proposed by the committee, far from obtaining any favor, has inspired much alarm. The senate has been represented, either as the asylum of the ancient aristocracy, masked under another name, or the cradle of a new aristocracy."⁵ Rabaut de St. Etienne said that it was feared that a body of senators chosen for life could too easily be corrupted by the court; but he confessed that the bearings of this plan and of the other for senators elected for six years were not at the time clearly understood.⁶

Even many of those most determined in their opposition to this scheme were not opposed to two chambers of the American sort. They did not, however, feel that this alternative was within reach,

¹*Point du Jour*, II. 256.

²*Ibid.*, 313.

³*Mercure de France*, September 19.

⁴*Logographe*, II. 321.

⁵*Courrier de Provence*, No. 37. Lafayette wrote to M. D'Hennings in 1799 that the plan of an elective senate "fut reboussée par les metaphysiciens, par les économes et par la foule des niveleurs qui apprenait un sénat électif pour une chambre de noblesse, et par les courtisans de cette foule; elle le fut aussi par les aristocrates forcenés, qui . . . votèrent pour ce qui leur parut le plus mauvais." *Mém.*, III. 231.

⁶In his *Précis*.

for they looked upon the American Senate as practically a second section of a single legislative body.¹ One of them touched another phase of the question in the remark: "They tell us of the American Senate. There it can be necessary because there is no royal influence." Dupont de Nemours and Sieyès suggested plans by which the deputies might be divided into two sections after they had been chosen or organized.²

On September 7, after a tumultuous session, it was voted to close the discussion and formulate the questions in order to bring them to vote. This task proved very difficult, but finally from sheer weariness the Assembly accepted the form suggested by Camus, a form in which, according to Mirabeau's journal, "not one of the questions was clearly put and scarcely one in its proper place."³ The questions were: first, shall the National Assembly be permanent or periodical; second, shall there be a single chamber, or two; third, shall there be a royal sanction; fourth, shall it be absolute or suspensive? The form in which the first was put seemed to pledge those who voted either way to vote also for the single chamber. And the second was so stated that all those who were opposed to any one of the several kinds of upper chambers would be obliged to vote for a single chamber. It is not surprising, therefore, that when the actual voting began the confusion increased. It happened that the president was a member of Mounier's group. He was so strongly suspected of trying to give the members of that group an opportunity to argue the general question further that he was insulted, and immediately resigned. The tumult was increased by the exclamation of Virieu that the bicameral system was the only means of protecting the legislature from unscrupulous demagogues. This apparently made votes for the other side. All these combined causes led to the decisive rejection of the bicameral system. Out of 1060 present only 89 voted for two chambers, while 122 explained that they had not yet reached a conclusion.⁴

There was an echo of this debate in May, 1791, when the method of legislative procedure was made the subject of a report. Buzot

¹*Point du Jour*, II. 316. Barère thought an indivisible body more active.

²*Logographe*, II. 296, 321.

³*Courrier de Provence*, No. 39, p. 3.

⁴Barère made this comment: "Ainsi point de sénat; nous ne pouvons espérer que du temps . . . l'oubli total des antiques privilèges, et un sénat en ce moment, réveillerait le germe destructeur des prétentions." *Point du Jour*. II. 345. This crushing defeat led to the resignation of the committee. With the failure of the senate plan disappeared also this opportunity to add to the functions of the provincial assemblies and to develop the analogy between them and the American states. The succeeding committee substituted a brand-new division of the whole country into departments.

proposed that each month the legislature be divided by lot into two sections in order to insure a ripe discussion. He anticipated that this proposition would be opposed as identical with the rejected scheme of two chambers and therefore he declared, "I distrust and detest, with all patriots, the establishment of two chambers." In saying this he had in mind the plan of Lally-Tollendal, for he speaks of one chamber as composed of privileged individuals. He argued from the practice of the American states, although instead of two homogeneous chambers he asked for two sections of the same chamber.¹ He also reminded the Assembly that Franklin, the author of the first Pennsylvania constitution, had since recognized his error. Pétion supported Buzot's suggestion and asserted that almost all the American legislatures proceeded in much the same way, which was certainly making the most of the fact of occasional joint sessions. The scheme, however, came to nothing.

The question of the veto was settled by the grant to the king of a suspensive veto, making impossible the passage of a bill disapproved by him until the third legislature. Such a veto had all the objectionable features of an absolute veto, and it also pointed to the king as the only obstacle to the immediate enjoyment of the benefits of legislation which—so the agitators would declare—was sure to be enacted into law after the constitutional interval was ended.

The lesson of all this hardly needs urging. It was natural that the ardent revolutionists of 1789, in making a constitution which should render impossible the return of the old régime, should not be enthusiastic for those features of the American constitutional system that suggested distrust of the popular will. It was also natural that their imaginations should be conquered by the American device of prefixing to a constitution a declaration of the rights which had been the theme of their own philosophers, and the goal toward which English law had been tending since the Great Charter. Not all Frenchmen are agreed that it was well to have followed such an example, but although the Constitution was ruined in the fall of the monarchy, "the principles of 1789," embodied in the Declaration of Rights, were to be the rallying cry of liberal France throughout the nineteenth century.

HENRY E. BOURNE.

¹*Moniteur*, réimpression, VIII. 463-465. Brissot, who in 1789 had been an advocate of the American system, seems to have changed his mind and come to the conclusion that this plan was better. *Patriote Français*, No. 652.